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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,555	10/31/2003	Carol D. Snyder	FSHR-076/00US	8403
22903	7590	12/29/2006	EXAMINER	
COOLEY GODWARD KRONISH LLP			WILLIAMS, JAMILA O	
ATTN: PATENT GROUP			ART UNIT	PAPER NUMBER
THE BOWEN BUILDING			3722	
875 15TH STREET, N.W. SUITE 800				
WASHINGTON, DC 20005-2221				

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/29/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/697,555	SNYDER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jamila O. Williams	3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 October 2006.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8,10,11,13-22 and 24-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8,10,11,13-22 and 24-41 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____.                         |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 33, 38 are objected to because of the following informalities: In the preamble of claim 33, "Apparatus" should be lower case. The preamble of claim 38 is not consistent with claim 17 (from which claim 38 depends). Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,6,7,8,10,30,36,35 are rejected under 35 U.S.C. 103(a) as being unpatentable over 878,810 to Letzkus in view of 6,485,349 to Snyder et al (hereinafter Snyder). Letzkus discloses a body having a first and second end, the body configured to resemble an animal (to the degree claimed by applicant the body of Letzkus resembles an animal, i.e. toy giraffe), an input aperture defined proximate the first end of the body and an output aperture defined proximate the second end of the body and spaced apart from the input aperture (fig 1), a passage disposed in the body and extending from the input to output apertures (fig 2), at least one member disposed in the passage and being configured to redirect a movement of a solid object (members 11).

Letzkus does not however disclose having a sensory output generator and actuator coupled thereto, as recited in claim 1.

Snyder teaches having a sensory output generator (speaker 132) and an actuator coupled thereto (object sensor 142). The actuator configured to provide input to the sensory output generator upon detecting movement of the object (col 4 lines 38-44 and col 5 lines 20-34). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the output generator and actuator of Snyder with the device of Letzkus (modified by Sommer) for the purpose of providing more amusement for the user.

Letzkus (modified by Snyder) discloses that the input aperture and output aperture are substantially vertically disposed with respect to one another (fig 1-2 of Letzkus), as recited in claim 2.

Letzkus (modified by Snyder) discloses at least one member (11) configured to redirect the movement of the object as it passes through the passage (fig 2 of Letzkus), as recited in claim 3.

Letzkus (modified by Snyder) discloses that the apparatus resembles a toy giraffe (the examiner takes the position that the device in figure 1-2 of Letzkus resembles a toy giraffe), as recited in claim 4.

Letzkus (modified by Snyder) discloses the sensory output is at least one of visual and audible (col 4 lines 5-10 of Snyder), as recited in claim 6; wherein the actuator is a compression switch (Column 4 lines 58-62 of Snyder the use of various types of actuators to sense movement of the object. In that compression switches are

well known actuators for this purpose it would have been obvious to use this type of actuator as suited for the intended use. It is further noted that applicant has given no criticality to the use of this type of actuator in paragraph 1021 of the specification), as recited in claim 7.

Letzkus (modified by Snyder) discloses the actuator is located substantially at the output aperture and configured to generate a sensory output when the object exits the output aperture (see figure 5 of Snyder, aperture 122 functions as an input/output aperture in the preferred embodiment col 5 lines 43-47 of Snyder), as recited in claim 8; wherein the actuator is triggered by engagement by the object (col 4 lines 38-61 of Snyder), as recited in claim 10.

Letzkus (modified by Snyder) discloses the body having a base configured to support the body on a surface, the base being disposed within a plane the output aperture being in a plane substantially orthogonal to the plane in which the base is disposed (fig 1-2 of Letzkus), as recited in claim 30.

Regarding claim 36, Letzkus modified by Snyder discloses the object being a solid object (ball 12 of Letzkus).

Claims 5, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over 878,810 to Letzkus in view of 6,485,349 to Snyder et al (hereinafter Snyder) and further in view of 5,100,141 to Fitch. Letzkus (modified by Snyder) disclose all elements of the claims but for the object being a toy block. Fitch teaches having a device that includes a toy block (dice). It would have been obvious to one having ordinary skill in the art at the

time the invention was made to use the toy block of Fitch with the device of Letzkus (modified by Snyder) for the purpose of providing more play value to the user.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Letzkus in view of Snyder and further in view of 408,635 to Sommer. Letzkus modified by Snyder discloses all elements of the claims but for the plurality of viewing apertures.

Sommer teaches having a plurality of viewing apertures defined by the body and communicating with the passage (figure 2 for example). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the viewing apertures of Sommer with the toy of Letzkus modified by Snyder for the purpose of providing viewing of the object.

Regarding claim 35, Letzkus modified by Snyder discloses a stacking platform defined by the body (area J of Letzkus is inherently capable of supporting an object).

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Letzkus in view of Snyder and further in view of 1,620,375 to Meling. Letzkus modified by Snyder discloses all elements of the claims but for the output door.

Meling teaches having an output door disposed at the second end of the body and configured to selectively retain an object within the passage (see figure 1 elements 19,17). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the door of Meling with the toy of Letzkus modified by Snyder for the purpose of selectively retaining an object within the passage.

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Claims 11,13-22,24,27,31-32,38,40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over 5,100,141 to Fitch or 5,197,735 to Land et al (hereinafter Land) in view of 6,485,349 to Snyder et al (hereinafter Snyder).

Both Fitch and Land disclose a method comprising receiving a toy block at an input aperture defined at a first end of a channel, the channel disposed within a body having a base configured to support the body on a surface, the base being disposed within a plane (fig1 of Fitch and fig 3 of Land, although marbles 36 are shown in this embodiment of Land, col 3 lines 63-68 teach that dice can also be used, thus satisfying the limitation for a toy block).

Both Fitch and Land disclose the method step of displacing the toy block along the channel and redirecting the toy block (col 3 lines 49-52 or col 4 lines 21-28 of Fitch and col 4 lines 4-18 of Land) and receiving the block at an output aperture defined at a second end of the channel and being substantially vertically offset from the input aperture, the output aperture being in a plane substantially orthogonal to the plane in which the base is disposed (opening 20 of Fitch and opening 42 of Land).

Neither of these references disclose the step of generating an output via an output generator when the toy block is received at the output aperture. Snyder teaches having a sensory output generator (speaker 132) and an actuator coupled thereto (object sensor 142). The actuator configured to provide input to the sensory output generator upon detecting movement of the object at the output aperture (col 4 lines 38-44 and col 5 lines 20-34). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the output generator

and actuator of Snyder with the device of Fitch or Land for the purpose of providing more amusement for the user.

Fitch or Land (modified by Snyder) discloses displacing the toy block by a gravitational force (fig 1 of Fitch, Fig 3 of Land), as recited in claim 13.

Fitch or Land (modified by Snyder) discloses the method of generating an output includes generating a sensory output (col 4 lines 5-10 of Snyder), as recited in claim 14; wherein the output generator generates the output based on engagement of an actuator by the toy block (col 4 lines 38-44 and col 5 lines 20-34 of Snyder), as recited in claim 15.

Fitch or Land (modified by Snyder) discloses the actuator is a compression switch, the method further comprising depressing the compression switch in response to engagement of the actuator by the toy block. Column 4 lines 58-62 of Snyder the use of various types of actuators to sense movement of the object. In that compression switches are well known actuators for this purpose it would have been obvious to use this type of actuator as suited for the intended use. It is further noted that applicant has given no criticality to the use of this type of actuator in paragraph 1021 of the specification, as recited in claim 16.

Fitch or Land (modified by Snyder) discloses the guiding structure having an input and output (fig 1 of Fitch, fig 3 of Land), an actuator disposed adjacent the output (fig 5 of Snyder), the guiding structure configured to resemble an animal (to the degree claimed by applicant the device of Fitch or Land resembles an animal), an output generator coupled to the actuator and configured to generate an output in response

engagement of the actuator by a solid object (col 4 lines 38-44 and col 5 lines 20-34 of Snyder), as recited in claim 17.

Fitch or Land (modified by Snyder) discloses at least one member configured to redirect a path of the object as it is displaced from the input to output (elements 48,50,60 or door 40 of Fitch; elements 16 of Land), as recited in claim 18; wherein the object is a toy block (dice), as recited claim 19.

Fitch or Land (modified by Snyder) discloses the output is one of an audible and a visual output (col 4 lines 5-10 of Snyder), as recited in claim 20; wherein the actuator is configured to be engaged by the object as it passes through the guiding structure to the output (col 4 lines 38-61 of Snyder), as recited in claim 21; wherein the actuator is a compression switch (Column 4 lines 58-62 of Snyder the use of various types of actuators to sense movement of the object. In that compression switches are well known actuators for this purpose it would have been obvious to use this type of actuator as suited for the intended use. It is further noted that applicant has given no criticality to the use of this type of actuator in paragraph 1021 of the specification), as recited in claim 22.

Regarding claim 24, Land (modified by Snyder) discloses a guiding structure that resembles a toy giraffe (fig 3 of Land).

Regarding claims 38 and 41, Fitch or Land (modified by Snyder) discloses a plurality of viewing apertures (figure 4 of Fitch and figure 3 of Land).

Regarding claim 40, Fitch or Land (modified by Snyder) discloses a passage disposed in the guiding structure and extending from input to output (interior of the devices of Fitch or Land).

Claims 25-26,27,28,29,39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitch or Land in view of Snyder and further in view of 1,620,375 to Meling.

Regarding claims 25-26, Fitch or Land (modified by Snyder) discloses a body having a first and second end, an input aperture proximate the first end and an output aperture proximate the second end, a passage disposed in the body and extending from the input to output, at least one member disposed in the passage to redirect a movement of a toy block (see figures 1-3 of Fitch, figure 3 of Land); a sensory output generator and actuator coupled thereto, disposed to detect movement of a toy block through the passage and to provide an input to the sensory output generator upon detecting movement of the block (col 4 lines 38-61 of Snyder). Figures 1-3 of Fitch and Figure 3 of Land also disclose having viewing apertures as claimed. These references do not however disclose having an outwardly opening door coupled to the body proximate the output aperture, the door configured to selectively retain an object deposited within the passage.

Meling teaches having a toy with an outwardly opening door coupled to the body proximate an output aperture (see door 19 and aperture 17 for example). It would have been obvious to one having ordinary skill in the art at the time the invention was made

to use the door of Meling with the toy of Fitch or Land (modified by Snyder) for the purpose of selectively retaining the object deposited within the passage.

Regarding the limitation of claim 26, wherein the body resembles an animal, to the degree claimed by applicant the body of Fitch or Land resembles an animal.

Regarding claim 27, see the rejection of claim 25 above.

Regarding claims 28-29, see rejections above (for example the rejection of claims 25-26).

Regarding claim 31, Fitch or Land (modified by Snyder) discloses a body including a base configured to support the body on a surface, the base being disposed within a plane, the output aperture being in a plane substantially orthogonal to the plane in which the base is disposed (see figures 1-4 of Fitch and Figure 3 of Land).

Regarding claims 32 and 39 see rejections above (for example the rejection of claims 25-26).

### ***Response to Arguments***

Applicant's arguments filed 10/13/2006 with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. The examiner maintains that to the degree claimed by applicant the references applied have a body configured to resemble an animal or a giraffe.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamila O. Williams whose telephone number is 571-272-4431. The examiner can normally be reached on Monday-Friday 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business

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Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JW 12-20-2006



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